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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,812	03/06/2002	Elmer C. Carroll JR.	Pickup-003	8412
7590	10/03/2003		EXAMINER	
WILLIAM E. JOHNSON, JR.			BRAHAN, THOMAS J	
The Matthews Firm			ART UNIT	PAPER NUMBER
Suite 1800			3652	
1900 West Loop South			DATE MAILED: 10/03/2003	
Houston, TX 77027				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/091,812	CARROLL, ELMER C.
	Examiner Thomas J. Braham	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 06 March 2002.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-20 are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
  - I. Claims 1-15, drawn to a self loading vehicle, classified in Class 414, subclass 543.
  - II. Claims 16-20, drawn to a method of loading a vehicle, classified in Class 414, subclass 812.
2. The inventions are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this application, the process can be practiced by a materially different apparatus such a computer controlled loading device such as Behrend et al, or a vertically swinging boom such as Goudie.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. To expedite prosecution, an action on the merits follows.
5. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate description of the claimed invention. It is unclear as to how the linkages function to maintain the load in a horizontal linear path.
  - a. As the linkage pivot points (22 44, 62, 64) do not define a parallelogram, as extension member (48) and arm 26 have their relative angle vary during movement, it is unclear as to how arm (40) maintains a fixed angle with respect to enclosure wall (12) during translation.
  - b. It is unclear as to how the link (46) functions. Figure 2 shows the link as having one end attached to pivot (44) and the other end attached to arm (26) when shown in solid lines. However it has

the arm moving as to have the first end still attached to the pivot (44) but has the second end attached to the other arm (40) when moving to the position shown in broken lines in the drawing figure. What is the structure of link (46)?

7. Claims 1-20 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

8. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

  
9/16/03  
THOMAS J. BRAHAN  
PRIMARY EXAMINER